UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1992/SR.25
25 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fourth session

SUMMARY RECORD OF THE 25th MEETING
(FIRST PART*)

Held at the Palais des Nations, Geneva,
on Thusday, 20 August 1992, at 3 p.m.

Chairman: Mr. ALFONSO MARTINEZ

later: Mr. SACHAR
Mr. CHERNICHENKO

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* The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1992/SR.25/Add.1.

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GE.92-13441/4824B (E)

The meeting was called to order at 3.20 p.m.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS (agenda item 7) (continued) (E/CN.4/Sub.2/1992/41)

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (continued) (E/CN.4/Sub.2/1992/15, 16, 41, 44 and 50; E/CN.4/Sub.2/1991/17; E/CN.4/Sub.2/1992/WP.1; E/CN.4/Sub.2/1992/NGO/2, 3, 5, 7, 15 and 33)

1. Ms. BATZIBAL (International Federation of Human Rights), speaking on agenda item 8, said that her organization endorsed Mr. Türk's report (E/CN.4/Sub.2/1992/16) and would comment on the situation of the economic, social and cultural rights of the Guatemalan people, particularly those of the indigenous population.

2. For 500 years, the Mayan people had suffered exploitation, discrimination and repression; they had never had the right to participate in decision-making in the political, economic, social and cultural fields and had remained in a state of servitude, useful only for agricultural work and to swell the ranks of the army and paramilitary forces. Their situation had deteriorated further as a consequence of economic developments.

3. The implementation of new economic development policies had reduced 90 per cent of the population - mainly the indigenous people - to extreme poverty. The economic adjustment policy imposed by the international financial agencies had been of little material benefit to Guatemalan people but had resulted in the rationalization of public expenditure, liberalization of the internal market and international trade, devaluation, inflation, increased interest rates and a wage freeze. The reduction in public expenditure meant that the programmes for education, health, nutrition and housing, already inadequate, had virtually ceased to exist, with a particularly serious impact on the Mayan population.

4. According to World Bank statistics, school enrolment was lower than in Haiti and the education budget took only 2 per cent of Gross Domestic Product while that of the armed forces absorbed between 40 and 45 per cent in addition to shares in other departmental budgets. There were insufficient hospitals, health centres, medicines and doctors particularly in the rural areas populated in the main by the Maya. Medical personnel attended only 19 per cent of births. Preventable sickness contributed to the mortality rate. The Guatemalan Institute of Social Security lacked needed medical supplies and served only 25 to 30 per cent of the population. Racial discrimination was practised against the Maya by State institutions. As a consequence of the emphasis on exports, maize, the staple diet of the majority of the population, currently required to be imported while non-traditional products such as cardamom and macadamia were being produced to meet the demands of the international market.

5. For 500 years the question of land ownership had been of great importance and the expropriation of smallholdings had led to frequent popular uprisings over the period. In April and June 1992 the Kakchiqueles Maya of San Jorge la Laguna in Solola and the Mames Maya of Cajola, Quetzaltenango had revolted but the uprisings had been put down by the security forces. As a consequence of losing their lands, the rural Guatemalans had been forced to migrate to the cities, thus increasing urban poverty and further eroding Mayan culture.

6. The structural adjustment programme had had a serious impact on the environment as a consequence of excessive commercial timber cutting at a time when the indigenous people were forbidden to cut even a single tree for everyday living and shelter. In addition, the army had cleared forest areas allegedly because they sheltered guerrilla groups. Over-fishing was destroying the marine environment. The use of pesticides and herbicides had accelerated deforestation and soil erosion. In addition, the industrial countries had been exporting toxic waste to Guatemala.

7. The reform of the taxation system had produced inflation, poverty, malnutrition, disease and illiteracy which were leading to social discontent. In the opinion of her organization, the Government bore major responsibility for that situation.

8. In the context of the situation in Guatemala, the Special Rapporteur's conclusions and recommendations should focus on five principles, namely: participation by the Maya people in decision-making in the political, economic, social and cultural fields; support for the people's struggle to recover the lands which had traditionally belonged to them; application to the Government of Guatemala to reduce the military budget in order to concentrate on the social services; support for the initiatives of the Maya people in defence of their identity and rights, bearing in mind that 1993 was the International Year for the World's Indigenous People; and support for the continuation of negotiations between the Government and army on the one hand and the Unidad Revolucionaria Nacional Guatemalteca (URNG) on the other hand in order to end the long struggle and find a solution to the problems which had sparked off the internal armed conflict, namely poverty, hunger, marginalization, oppression, exploitation and discrimination.

9. Mr. CHOEPHEL (International Association of Educators for World Peace), speaking on agenda item 8, drew attention to the recent decision of the Chinese authorities to open Tibet to the outside world economically in order to promote the development of Tibet and to weaken the resistance against Chinese rule. Tibetans and the Government in exile supported any policy to improve the conditions of the Tibetan people in Tibet. The timing of China's announcement, in the second week of the current session of the Sub-Commission, was significant and demonstrated China's increasing sensitivity to international opinion and the effectiveness of the Sub-Commission. In 1991, the Sub-Commission had passed resolution 1991/10 on the situation in Tibet and the situation in Tibet had again been discussed at the current session. China was undoubtedly concerned about the strong interest in the plight of Tibetans and the growing impatience of the international community with its repressive policies in Tibet.

10. For years the colonial Powers had kept the peoples they had conquered and colonized poor, socially and politically inferior and culturally stifled by using a combination of policies, the principal characteristics of which had been economic exploitation of the people and the economic resources of the colony, racial discrimination against the indigenous people, retention of all real political, economic and social power in the hands of the alien ruling elite and, in many cases, population transfer from the metropolitan country to the colony. Providing access and economic opportunities to foreign investors in a colonial territory had always benefited the ruling colonist elite rather than the indigenous population. In South Africa, for example, economic prosperity and foreign investment had not only benefited the white minority but had helped them maintain their oppressive control over the disenfranchized majority. Tibetans feared that similar considerations lay behind China's new policy of opening up Tibet economically. Indeed the Chinese Government had openly admitted that a principal reason for the new policy had been to strengthen Chinese control over the country.

11. In the past, economic development projects in Tibet had benefited Chinese settlers there and the Chinese Government in Beijing. The lumber industry and uranium and borax mines, for example, had resulted in the devastation of forests and other serious environmental damage and had provided no benefits for Tibetans. Most of the labour had been Chinese and the revenues had gone to China, not to Tibet. Similarly, China had built a hydroelectric plant on Lake Yamdrok despite strong opposition from the Tibetans; that project had had serious environmental implications and, once again, had benefited the Chinese rather than the Tibetans. In most places electricity was only available where the Chinese colonists had settled while in the segregated Tibetan sections of cities electricity was rationed. A major mining and deforestation operation in Gyama Trikhang, east of Lhasa, had caused the village's water supply to dry up and there were fears of health hazards; Tibetans derived no benefit from the mine and were not even allowed anywhere near it. When the Tibetans protested, the response of the Chinese authorities had been to send troops to quell the "disturbance".

12. The other major concern of Tibetans was that China might use its new policy to speed up the population transfer of Chinese into Tibet, making Tibetans an insignificant minority in their own country. When China had invaded Tibet in 1949/1950 there had been virtually no Chinese in Tibet. Currently 7.5 million Chinese already outnumbered the 6 million Tibetans in the 3 provinces of Kham, Amdo and U-Tsang. In the so-called Tibet Autonomous Region, which comprised less than half of Tibet, there were already at least 1 million Chinese.

13. His organization would welcome any policy which benefited the Tibetan people, although past experience had led to fears that China's new policy might not have that effect. It could, however, do so if the international community kept a close watch on the implementation of the programme and refused to cooperate in any ventures that either harmed Tibetans or helped the Chinese Government to consolidate its repressive hold on Tibet or to transfer more Chinese into the country.

14. In conclusion, he wished to say that the issue of Tibet could only be solved by the mutual agreement of the Tibetans and the Chinese. Tibetans wished to live as good neighbours of the Chinese people, but not as the colonial subjects and second-class citizens of a country that had brought only suffering to the people. Such an agreement could only be reached through earnest negotiations between the two parties. His organization believed that such an outcome could only be the case if the international community kept a close watch on the situation.

15. Mr. AGHILIPOUR (International Fellowship of Reconciliation), speaking on agenda item 7 (a), introduced himself as a traditional Muslim Iranian who had been condemned to death and his property confiscated by a decision of the revolutionary committees because of his involvement in the struggle for democracy, human rights and women's rights in his country.

16. He was particularly concerned by the situation of Iranian women and children who were the groups most persecuted by the inhuman decisions of the Government of the Islamic Republic of Iran. Iranian women continued to be arrested for wearing clothing which did not conform with the hijab which obliged women to show no more than their face and hands in public and to wear clothing which concealed their shape; they were forbidden to wear cosmetics or nail varnish. On 6 and 7 June 1992, 157 women had been arrested in Tehran for non-compliance with hijab. In subsequent months the number of arrests had multiplied as it was difficult for women to wear the hijab-prescribed clothing in very hot weather. The harassment by the members of the revolutionary committees had reportedly led to confrontations between them and the young people of the neighbourhood who had tried to defend the women. According to a press report of 28 May 1992, a bill was to be submitted to the Majles which would provide a scale of penalties for infractions of hijab ranging from whipping to imprisonment or internment in an Islamic re-education camp.

17. It had been reported that a decree was about to be introduced which would prohibit women from singing, playing music, reciting poetry, laughing or weeping in public, on the grounds that such activities were liable to arouse men. The participation of women in sport was also strictly limited. Women were confined to a separate compartment in public transport vehicles in a form of apartheid.

18. The education of girls had been adversely affected. Because of sex segregation the number of teachers had fallen and those available were sent to boys' schools with the result that girls in a number of rural areas were not able to attend school. Social discrimination was equally serious. Legal polygamy had been reintroduced in 1979 and was widespread.

19. He noted that in Afghanistan the situation of women was deteriorating in similar fashion as a consequence of the introduction of Islamic laws three months earlier.

20. He urged the Sub-Commission to add to its draft resolution a paragraph on the issue of women in the Islamic Republic of Iran which would condemn the acts of violence and brutality, such as executions, physical and moral torture and ill-treatment, perpetrated by the ideological Tehran regime in breach of the human rights and women's rights enshrined in the international instruments which had been ratified by that country.

21. Mrs. ATTAH, speaking on items 7 and 8, supported the views expressed by Mr. Türk in his report (E/CN.4/Sub.2/1992/16), especially his view on the indivisibility of all the rights stipulated in the Universal Declaration of Human Rights.

22. The inequalities and injustices of the present international economic system included the massive annual net transfer from the South to the North of $200 billion in debt servicing and repayment. To that must be added the losses suffered from unfair terms of trade and discriminatory multilateral trading practices that sought to entrench global monopolies and cartels. Efforts by countries of the South to break through such cartels often met with official trade barriers by Governments of the North amidst increasing regionalization of international markets.

23. The plight of the developing countries of the South had been further intensified by the activities of transnational corporations which had become a power above the nations. Together with international public organizations, they had systematically exploited and impoverished the countries of the South and, in the process, had undermined not only the human rights of the peoples of those countries but, in some cases, their sovereign rights as well.

24. Third world economic management in the 1980s had been dominated by the World Bank/IMF designed structural adjustment programmes which combined price and trade liberalization, domestic expenditure reduction and institutional reforms and were aimed presumably at enhancing efficiency in resource use and promoting growth. Those programmes had, however, particularly in Africa, been a major source of escalating poverty, worsening income distribution, falling export earnings, erosion of social safety nets, increased reliance on unreliable markets and increased indebtedness.

25. The insistence by the North at the Uruguay Round of Talks on the universal application of intellectual property rights would place additional obstacles on the technological development of third world countries. Similarly, the ongoing United Nations restructuring exercise had opened the way for expanded powers on the part of the Bretton Woods institutions and GATT, which the developed countries could continue to use to perpetuate the existing international economic status quo.

26. There was a fundamental need for an across-the-board effort at the levels of the family, community, national Governments and non-governmental organizations, to put in place key elements for the eradication of poverty. There should be equal access to education and training opportunities that would take account of age and gender balance which were vital to poverty eradication. The fight against poverty must concentrate primarily on the absolute poor. A recent meeting of Africa Forum in Lagos had emphasized that such programmes should be self-selecting by the poor themselves and targeted on areas where the needs had clearly been identified and where the programmes could have an impact on the greatest number among the poorest of the poor.

27. Measures should also be adopted for the international monitoring and regulation of transnational corporations and other big-business enterprises. The proposals in the Uruguay Round to dismantle national State regulatory frameworks dealing with entry and operations of foreign firms, the recent

closure of the United Nations Centre on Transnational Corporations and the shelving of its code of conduct for those corporations were clearly designed to enhance the powers of those entities.

28. There was a need for urgent reform of the existing financial institutions through democratization. Existing North-South economic relations, which were based on domination and exploitation, were due in large part to the absence of democratic principles in those institutions.

29. In conclusion, she wished to support the call for a study by the Sub-Commission on the violation of the rights of the poorest poor.

30. Mr. BOUTKEVITCH, speaking on agenda item 8, commended Mr. Türk for his final report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/16), which was a highly professional and profound study and said that he would focus on the legal aspects of the question.

31. In the list of ongoing barriers to the realization of those rights, the Special Rapporteur had included factors that were primarily economic in nature. Yet even if it were possible to clear away all those barriers, it still would not mean that all problems associated with the realization of such rights had been resolved.

32. Although economic, social and cultural rights were on an equal footing with other rights in theory, that was not the case in practice. Even the Sub-Commission spent most of its time discussing civil and political rights. On the other hand, throughout the world there was at least a superficial awareness of economic, social and cultural rights, thanks to the dissemination efforts of the United Nations and its various bodies, non-governmental organizations and Governments themselves.

33. There were certain rights that States could not expect to see realized if they did not take action, for example the right to decent working conditions or the right to health. To achieve those goals, efforts must be made not only by individuals and society, but also by the State itself. Yet States often proclaimed such rights and then made no attempt to implement them. For example, the Constitution of the former USSR had proclaimed that everyone had the right to housing, at the same time that millions had been on the waiting-list to receive a rudimentary flat. To cite a current case, on the one hand the State proclaimed the right to a vacation, and on the other hand the costs of a vacation had risen so fast that many would have to work for years to be able to afford it. Similar examples could be found in other national legislation.

34. Having analysed the situation in a number of States, he had reached the conclusion that legislation at national level had created effective techniques to avoid ensuring respect for economic, social and cultural rights. One technique was to prevent information on those rights from being disseminated by making it available to a very limited readership. Sometimes only one copy of the International Covenants on Human Rights was available for every 100,000 citizens. That one copy typically remained in a library and was not accessible to the average citizen. The International Covenants were often published in languages that the local population did not understand. Another

technique was to prevent national legislation from being brought into line with the provisions of the International Covenants. States sometimes assumed the obligations under the International Covenants, but then took no steps to change national legislation that ran counter to those instruments. A third technique was when a State did not establish the legal framework for ensuring respect for the International Covenants. Legislative organs did not focus adequately on such mechanisms, executive organs only implemented national legislation, and the judiciary refused to recognize the validity of international human rights instruments.

35. He had pointed out a number of times on earlier occasions that legal barriers at national level, an aspect not sufficiently examined by the Special Rapporteur, remained a serious problem that had an adverse impact on respect for human rights and should thus be the subject of a special study.

36. Mrs. KSENTINI thanked Mr. Sachar for his excellent working paper on the right to adequate housing (E/CN.4/Sub.2/1992/15). The housing crisis affected both the developed and the developing countries, hence the utility of a study. In examining the problem in developed countries, the special rapporteur to be appointed should focus on the marginalization of vulnerable groups, extreme poverty, urbanization and street children and the way those phenomena related to the right to housing. Mr. Sachar had rightly pointed out that the central element in the realization of the right to housing was the problem of discrimination, and the Sub-Commission should undertake a study of how States combated discrimination when ensuring the realization of that right. The question of discrimination was also linked to the need for an equitable income distribution. It would be useful, in examining the realization of that right, to focus on apartheid, the development of ghettos in South Africa and the problem of other discriminated groups, such as migrant workers, the poor segments of the population, etc.

37. The examination of those causes of the international housing crisis singled out in the working paper should continue and attention should also be given to the problem of development and the right to participation, as well as the impact of structural adjustment programmes on the realization of the right to housing. With regard to forced evictions, it would be useful to consider the demolition of housing as part of a deliberate policy on the part of certain occupying authorities, for example the Israeli practices in the occupied Arab territories. It would also be interesting to examine how other international human rights bodies reacted to housing complaints. The right to housing must be seen in the context of non-discrimination, the right of association and even the question of legal guarantees. She noted that it was often difficult to prove that the right to housing had been violated by discriminatory practices.

38. She then addressed the question of extreme poverty, which constituted a challenge to the realization of human rights. The Sub-Commission should appoint a special rapporteur to undertake the study on the question of extreme poverty requested by the Commission on Human Rights in its resolution 1992/11.

39. Turning to the final report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1992/16), she congratulated the Special Rapporteur, Mr. Türk, on his excellent work. The report had reopened

the debate on the interdependence of human rights. She must admit that the Special Rapporteur was right in concluding, in paragraph 23 of the report, that the changes which had taken place in the world had brought about a change in the attitude towards economic, social and cultural rights and that that change had strengthened the hierarchization of human rights in favour of civil and political rights. In the past, ideological considerations had been at the origin of the quarrel over the concept of economic rights; perhaps it would be possible to reconcile those rights and to recognize their indivisibility and interdependence. In the statement by the delegation of the United States of America, there seemed to have been a first opening in the direction of economic rights, although that delegation appeared to consider that civil and political rights were the "noble" rights, concerning spiritual goals, whereas economic and social rights reflected base material objectives. Yet there could be no such dichotomy. For example, the right to education, a perfect example of an economic, social and cultural right, was essential to the right to elect and to be elected, just as the right to health and adequate nourishment was a precondition to the right to life. Yet, 1 billion persons in the third world lived in poverty, 1.5 billion had no access to primary health care, 1.75 billion had no source of drinking water, 870 million adults were illiterate, 150 million children suffered from malnutrition and 240 million children did not attend school. Clearly, the purpose of the right to development and of economic, social and cultural rights was not to dilute other rights. It was imperative to put an end to the hierarchization of rights, which was an obstacle to their realization.

40. The Special Rapporteur had rightly focused on the impact of structural adjustment programmes and the realization of the right to work, to adequate nourishment, to housing, to health care, to education and to development. Although the effect of such programmes had been attenuated by the social safety net, they still had adverse consequences for human rights. Moreover, the initiative for formulating economic policies had passed from the national authorities to the international sphere. The impact of structural adjustment policies had been particularly severe on the most vulnerable segments of the population, and the Committee on Economic, Social and Cultural Rights had underscored the urgent need to intensify efforts to ensure protection of those rights and had called upon States and United Nations institutions to ensure that such protection measures were integrated into structural adjustment programmes.

41. Noting a deterioration of the debt crisis, the Special Rapporteur had pointed out that third world debt had reached US$ 1,351 billion at the end of 1991 (US$ 1,450 billion according to the Organisation for Economic Cooperation and Development (OECD)), that total resource flows from the South to the North between 1982 and 1990 had amounted to at least US$ 432 billion and that the debt crisis had led to a tremendous growth in impoverishment, UNICEF having estimated that more than 500,000 children died annually as a direct consequence of ongoing debt-related problems. Thus, the debt burden had brought about a deterioration in the living conditions in the third world, especially in Africa.

42. Mr. TIAN JIN, speaking on item 8, said that Mr. Türk's thorough and thoughtful report (E/CN.4/Sub.2/1992/16) was one of the most important documents of the current session of the Sub-Commission. The report stressed

that the current world situation was even grimmer than in previous years. The gap between the developed countries and the developing countries had been widening, with no end in sight.

43. He wondered whether it might have been useful for the ongoing barriers to the realization of economic, social and cultural development enumerated in the report to have been rearranged according to external and internal barriers. The developed countries, particularly the leading Powers, transnational corporations and major financial institutions had an enormous impact on the economy of the developed countries, and it would therefore be clearer to group the external factors for analysis.

44. He agreed with the criticism levelled against the international financial institutions by the Special Rapporteur in paragraph 49 of his report. But there was no single ready-made prescription that could be applied to all countries. As the former Chancellor of the Federal Republic of Germany, Mr. Helmut Schmidt, had said, the reform in Russia should not be implemented on the basis of a programme worked out by professors at Harvard University, but rather by the Russians themselves. The international financial institutions must be more objective when giving advice to countries.

45. He considered the drafting of a possible set of basic policy guidelines on structural adjustment, to which the Special Rapporteur referred in paragraph 63, to be a very important matter. The 10 issues that should be discussed and eventually included in those guidelines, as set out in paragraph 64, should be given further thought.

46. There was widespread agreement on the concept of human development. The economic performance of a given country should not be measured by its rate of economic growth alone. Progress made in health care, education and social benefits were also important factors. Concerning the compilation of what were called human development indicators, he warned that strong political and ideological elements would be introduced into such an undertaking. Over the decades, the work of the international financial institutions had been above politics and had maintained impartiality. It was not advisable to compare a whole set of human development indicators based on subjective and unreliable sources. That had nothing to do with the promotion of economic, social and cultural rights and would only be prejudicial to the terms of reference of those bodies. Mr. Türk had suggested that a seminar might be convened to discuss which indicators would be relevant for use in the field of economic, social and cultural rights; that was a very complex matter, and such a suggestion should therefore be given careful study; otherwise, it might well be counter-productive.

47. He endorsed Mr. Türk's suggestion that the question of the realization of economic, social and cultural rights should be further pursued by the appointment of other special rapporteurs. It was difficult to see why an artificial distinction should be made between "rights" and "goals". Did a starving person have a right to life but not to food? As had been noted at the recent meeting of ministers of the Non-Aligned Countries, there was a persistent side-tracking of the economic, social and cultural aspects of human rights by some members of the international community, while the civil and political aspects of human rights were invoked as a condition for extending

economic and social development assistance. Those practices undermined the need for a balanced approach to human rights. Efforts to promote human rights and fundamental freedoms could succeed only through international cooperation as provided for in the Charter of the United Nations and not through confrontation or the imposition of incompatible values. The World Conference on Human Rights in 1993 must address all aspects and ensure a just and balanced approach.

48. He agreed with the course adopted by Mr. Sachar in his working paper (E/CN.4/Sub.2/1992/15) and hoped that the subject would be pursued further.

49. Mr. Sachar took the Chair.

50. Mr. DILLOWAY (International Humanist and Ethical Union) said that it was important to consider the economic background that lay behind the two reports (E/CN.4/Sub.2/1992/15 and 16) before the Sub-Commission. In fact, since October 1973 the entire world economy had been deteriorating. The present global economy did not work and would not work. However, it was precisely that global economy that created the adversarial frame that forced failing market systems to compete and to do so in an unavailing manner. Western market systems of economy and government still went through the motions of running an economic machine but their real powers were now minimal. Transnational corporations, which remained outside all control and outside the competitive world system, now accounted for well over half of world trade and for a large part of all economic activity.

51. For 30 years national public investment in the West had been in relative decline at a time when the demand for essential services had been rising. Widespread ageing of the population, a critically declining natural and social habitat and the high proportion of relative poverty found in the world all dictated a need for strong public services. However, fashion decreed that such services should be run down or privatized. With economic growth in decline, the supposed "trickle-down" effect - that of making the poor richer - no longer existed. Nevertheless, calls for strong rather than weak government persisted and increased as time passed. In other words, free market systems were no longer viable in human rights terms.

52. The human rights analyst tended to look into the question from the outside, trying to discern where human rights problems might arise. In the market economy, however, the whole structure was based, not on professional expertise, but on an ideology that served private business and its governing elite. When it had been developed two centuries previously, free market theory had been relevant to the small-scale local exchanges of the day. At present it was retained simply because it suited existing power structures. It would work only if market transactions were between equals and transnational corporations did not exist. At the same time the climate of concern for human rights was in rapid decline.

53. The question was to ascertain whether there were any criteria, any principles appropriate to a modern system of economy and government that could incorporate human rights values. Such principles could be found, but that meant that human rights criteria must emerge not externally, but internally and explicitly. Together with security, essential public services ought to be

the first call on the public purse. Fair principles of distribution ought to prevail, and freedom for market enterprise should be kept within strictly defined limits. There should be a full code of citizens' rights. Some of that, however, could be done only if prior international agreements also existed. Otherwise, the more humane States would be placed at a disadvantage in the competitive scramble.

54. A further corollary was that adversarial politics was now, in part, also outdated. Human rights requirements, plus urgent environmental concerns, now dictated certain overriding priorities. The old idea of two or more opposite and competing economic philosophies was becoming outmoded. To a large extent, there were now fundamental priorities. To correct economic and social decline, worldwide human rights criteria needed to be applied not from outside, but explicitly and from inside the system. Those considerations, as well as the need for international compacts on such matters, should now be incorporated in all human rights analyses where economic and social rights were in question.

55. Mrs. WARZAZI, speaking on item 8, after pointing out that the international community's concern for social progress and better standards of living went back as far as the adoption of the Universal Declaration of Human Rights in 1948, drew attention to the great economic disparities between the developed and developing countries. Europe had been able to recover from its post-war frustration through the Marshall Plan, but there was no Marshall Plan for the developing world. What the developed countries offered the developing countries with one hand, they took back with the other, the third world now being a net exporter of capital. In some developing countries it was better to be an animal than to be poor, since animals had organizations to protect them and there were laws to punish people who maltreated them.

56. The demonstrations that took place in developing countries against price increases dictated by structural adjustment policies were easy to understand. When, however, such demonstrations took place in developed countries, they were the expression, not of underdevelopment, but of violations of human rights, particularly of the right to equality, as exemplified by the large number of homeless persons. Thus, it was not realistic to claim that political democracy automatically led to prosperity. Those developing countries that had achieved an economic take-off had done so under "strong" regimes.

57. There were numerous obstacles to the promotion of economic, social and cultural rights. In the 24 years since the Commission on Human Rights had first dealt with the matter, the situation in that regard had deteriorated, perhaps because of governmental mismanagement and overspending on armaments. Most of the conflicts in developing countries had, in fact, arisen within the framework of the cold war. The armaments industry was highly profitable and Governments that provided very little development assistance to developing countries were sometimes extremely generous where the sale of weapons was concerned.

58. It was also necessary for democracy to prevail at the international level. A rich country surrounded by poor countries would one day be seriously threatened, and its status as a democracy would not save it from disaster.

The insolvency of the third world would inevitably have consequences for the developed countries. What was needed was a "development contract" involving shared responsibility between the third world, donor countries, non-governmental organizations and international financial institutions. The developing countries certainly had an obligation to promote economic, social and cultural rights, but the road would be long and obstacles such as debt, tariff barriers and political and economic pressures had to be removed. Responsibility for promoting those rights certainly lay with Governments, but much depended on education, information and training. A starving person would have no hesitation in choosing between a ballot paper and a loaf of bread.

59. Some 85 per cent of the world's population lived in the developing countries, which enjoyed only 25 per cent of the world's gross economic product. In the next 25 years the developing countries would contribute 95 per cent of the increase in the world's labour force. It was quite inadmissible, in a world of remarkable technological progress, that more than 1 million persons lived on less than one dollar per day. The non-governmental organizations International Movement ATD Fourth World and International Federation Terre des Hommes were to be congratulated on their fine work.

60. She supported Mr. Türk's recommendations, especially those concerning the peace dividend. The Secretariat, in collaboration with UNDP and the World Bank, ought to prepare a study on the benefits that a 5 or 10 per cent reduction in expenditure on armaments would have for economic, social and cultural rights in the developing countries and among marginalized groups in the developed countries.

61. Mr. AMOAH (International Commission of Jurists), speaking on items 7 and 8, after noting that global concern regarding the rights to development and a healthy environment had greatly increased over the past two years, recalled that at the Forty-third session of the Sub-Commission the International Commission of Jurists (ICJ) had spoken out against fraudulent enrichment by top government officials who misused national resources for personal gain. Such abuses were major contributing factors to the problems of underdevelopment and environmental degradation. The gravity of the problem had increased as a result of the recent tendency for government officials to indemnify themselves from prosecution by enacting legislation making them immune from liability in respect of illegal acts committed while in office. The impunity of top officials was a great hindrance to the realization of economic, social and cultural rights. The ICJ urged the Sub-Commission to take action to prevent such interference with the rule of law.

62. The enormous debt burden of many developing countries was the result, at least in part, of the inequitable nature of present international economic relations, severe resource constraints due to drought and other natural disasters, fraudulent enrichment and other forms of resource mismanagement, and internal strife. Ironically, in their desperate attempt to secure further loans and development assistance, debtor nations had to confront stringent structural adjustment programmes and conditions imposed by international financial institutions and donor organizations. Unfortunately, those programmes generally served to hinder the realization of economic, social and cultural rights. The Special Rapporteur, Mr. Türk, having studied the intricate and complex relationship between human rights and structural

adjustment programmes, had noted that the emphasis on efficiency, growth, increased exports, decreased imports, limiting public expenditure, currency devaluation, reduced inflation and the like, although not viewed by their proponents as affecting the realization of economic, social and cultural rights, did in fact have a major impact on their fulfilment. Mr. Türk's report (E/CN.4/Sub.2/1992/SR.16) drew attention to the negative impact of adjustment programmes upon the realization and implementation of the rights to work, to food, to adequate housing, to health, to education, and to development. The Special Rapporteur was of the opinion that aid institutions which required adherence to structural adjustment programmes without vigilance as to the protection of human rights contravened what were arguably their own institutional duties under international law. He had also noted that structural adjustment programmes that failed to incorporate human rights into their working methods, policies and projects were probably limited in their effectiveness. The ICJ agreed wholeheartedly. Structural adjustment programmes should be a means for creating greater social equality, alleviating poverty and protecting society's most vulnerable groups.

63. A major hindrance to the enforcement of economic, social and cultural rights was the fallacious argument that, unlike civil and political rights, those rights were not justiciable. However, State laws and practices related to the protection of such rights could indeed be subjected to judicial review. Although the full realization of the rights recognized in the International Covenant on Economic, Social and Cultural Rights was to be a gradual process, the application of some rights could be made justiciable immediately, while other rights could become justiciable over time. The implementation of most economic, social and cultural rights required resources that were scarce in many countries, but the implementation of many civil and political rights also required State resources: yet the international community refused to allow derogation from the most fundamental civil and political rights. The notion that civil and political rights were "negative" rights that were "cost-free" was highly debatable. The existence of an independent judiciary and a neutral and competent police force to protect basic civil and political rights, for example, required extensive State expenditure. Thus the protection of basic economic, social and cultural rights should not be judged by a different standard than in the case of civil and political rights.

64. The first step towards enforcing economic, social and cultural rights was to ensure that legislation within member States was not in violation of the International Covenant. For example, de jure discrimination of any sector of a society should be absolutely prohibited as contrary to the enjoyment of those rights. Member States should also be obligated immediately to provide minimum subsistence rights to all in order to alleviate extreme poverty. Although the ICJ strongly believed that economic, social and cultural rights were justiciable, it recognized that the justiciability of those rights was a complicated matter. It therefore strongly recommended that the Sub-Commission conduct a special study on the justiciability of economic, social and cultural rights. It was convinced that those rights could not be separated from civil and political rights and hoped that the Sub-Commission would begin to place more emphasis on the implementation and enforcement of economic, social and cultural rights in the future.

65. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) expressed the hope that the work on economic, social and cultural rights undertaken by the Sub-Commission in recent years would strengthen the will to implement those rights. Mr. Türk's report (E/CN.4/Sub.2/1992/16) should be followed up by an analysis of each group of rights and the Sub-Commission should consider the rights guaranteed by article 13 of the International Covenant on Economic, Social and Political Rights and appoint a special rapporteur for them.

66. At present there was a consensus on the importance of the right to education, particularly from the perspective of lasting development. Without education for all, there was no real social and economic progress. The right to education was a right to pluralistic, democratic education. A right to education without real freedom of choice could only give rise to the ideological use of education or to a soulless, petty bourgeois education.

67. Nevertheless, the right to freedom of education had often remained a dead letter, even in States with a long democratic tradition. He wished to draw attention to the situation in two countries of the European Community - namely, Italy and France - that had had a particular obligation to respect that freedom since the adoption by the European Parliament, in 1984, of a resolution stipulating the obligation to make possible the practical exercise of that right and to grant private schools the public funds needed for them to perform their duties in conditions of equality with those enjoyed by State schools. The Italian Constitution recognized the right and duty of parents to bring up their children in conformity with their convictions and the right to set up a school independent of the State. In practice, however, the rights and duties of parents, like those of the private schools, were weakened by the burden of a substantial bureaucratic apparatus; only schools set up and managed directly by the State were fully recognized. The main constraints placed by the State on independent schools were the requirement that diplomas issued by private schools must strictly conform to the State model; the fact that the obligation to attend school was in practice an obligation to attend a school that was identical for all; the fact that curricula and teaching methods were laid down in national programmes binding on both the State and the private schools; and the fact that the State granted no financial support to schools that were not directly managed by it. It was to be hoped that the new Minister of Education would do something to change the situation.

68. In France, despite the agreement between the Catholic schools and the Ministry of Education for the reimbursement of a debt assessed at 5 billion francs, this situation was far from satisfactory. The agreement contained no concrete provision to prevent further differential arrangements in future and the measures to achieve parity between teachers in State and private schools had not been applied, there being a clear discrimination between the two. In France, freedom of education was not always a right but a concession.

69. On the other hand, his organization (OIDEL) commended the efforts made by countries in central and eastern Europe that were establishing systems based on the principles set forth in the International Covenant. The Russian Federation, for example, was working on a new education act and had appointed a commission of independent experts, including a member of OIDEL, to advise

the Minister of Education on legislation. The draft text currently being discussed proclaimed the creation of an educational system that would guarantee "freedom and pluralism" as a central objective.

70. Mr. Chernichenko took the Chair.

71. Ms. FAT'HE (General Arab Women Federation 1944), speaking under agenda items 7 and 8, noted the importance of the international cooperation in the realization of human rights called for in article 11 of the International Covenant on Economic, Social and Cultural Rights. Under the terms of that article, the international community had a duty to cooperate positively with States so as to enable their citizens to exercise their economic, social and cultural rights. Article 24 (2) of the Charter of the United Nations stipulated that in discharging its duties, the Security Council must act in accordance with the Purposes and Principles of the United Nations, the most important of which were promoting and encouraging respect for human rights and for fundamental freedoms for all (Article 1 (3) of the Charter). Security Council measures imposing economic sanctions on a country under the procedure set forth in Chapter VII of the Charter should thus ensure that minimum exercise of their economic, social and cultural rights by the people was not affected. Furthermore, the international community should address the serious consequences of imposing such sanctions on States; and committees of independent experts such as the Sub-Commission should ensure that their recommendations and resolutions were free from political influence.

72. There was no need to recapitulate once more the tragic consequences for women and families of the economic blockade imposed on Iraq, which had remained in force for two years for purely political reasons. Deaths among children in the under-five age group in the period from November 1991 to May 1992 totalled 22,403, almost double the rate for the period August 1990 to October 1991. Over the same period, 39,640 children in the over-five age group had died, bringing the total number of deaths since August 1990 to 93,866, most of which were attributable to severe shortages of medicines and food. The international community must find a more positive formula for tackling that tragedy than the mere launching of appeals.

73. In calling for a study of the impact of international resolutions imposing sanctions on States and their consequences for the exercise of their economic, social and cultural rights by peoples, her organization did not wish to single out the events taking place in Iraq. Now that the use of economic sanctions by the Security Council had become a regular practice, the consequences of those sanctions would shortly be felt in other parts of the world. The issue called for the most serious attention on the part of the Sub-Commission.

74. Ms. BEYELER (International Movement ATD Fourth World), speaking on agenda item 8, said that the current session of the Sub-Commission was particularly important for groups suffering from extreme poverty, in that the Sub-Commission was to undertake the study on human rights and extreme poverty requested by the Commission on Human Rights in its resolution 1992/11, taking account of the efforts of the poorest themselves to achieve the exercise of those rights and the conditions in which they might effectively convey their experience and become partners in the realization of human rights. In taking account of that experience, the Sub-Commission would counter the doubt, suspicion and contempt

that continued to attach to the very poor, and would acknowledge the fact that they, too, had solutions to offer. Her organization, which represented the poorest families and segments of the population the world over, would play its part in the preparation of that study.

75. In recent years, those families - some reduced to living in cemeteries because there was no longer room in the shanty towns; others living alongside the railway tracks, in welfare hostels, cellars, attics and abandoned factories, whose children had taken to the streets to enable them to survive or had been taken into care by the authorities - had been kept regularly informed of the work of the Sub-Commission.

76. She had several messages from those families to convey to the Sub-Commission. Two women in Asia, who supported their families by scavenging on refuse heaps, asked the Sub-Commission to remember that for them, the most important thing was that their families should remain intact.

77. Parents of poor families in the Caribbean wished to inform the Sub-Commission of their fears for their children. Emergency aid alone would not give those children a future. Once upon a time, their future had lain in their parents' toil; now, the parents were reduced to begging, and their children left school without basic literacy skills, to beg with them.

78. That was how many persons living in extreme poverty throughout the world were preparing themselves to transmit their experiences and hopes, through the network of those engaged in dialogue with them. The Fourth World Committee, bringing together many non-governmental organizations in consultative status with the Economic and Social Council, had set up a working group to disseminate that grass-roots experience and promote dialogue with the populations concerned through various non-governmental organizations. That initiative reflected the perception by her organization's founder, Father Joseph Wresinski, that collective poverty could never be solved until its victims received a hearing on an equal footing in forums where ordinary citizens debated and decided the future of mankind. Father Wresinski had set out to break the vicious circle of extreme poverty and exclusion, and to provide the very poor with an opportunity to show their mettle.

79. Over 35 years, International Movement ATD Fourth World had accumulated extensive archives documenting the efforts of the poorest to resist their situation and recover their fundamental rights. The information contained in its monographs might serve as a further contribution by her organization to the work of the special rapporteur on extreme poverty.

80. The history of the poorest illustrated the courage of those who had surmounted their own poverty in order to take up the struggle on behalf of those still poorer than themselves. Through the efforts of the international community, including the Sub-Commission, the poorest would one day be able to join with others in saying: "We the Peoples of the United Nations ...". Meanwhile, the Sub-Commission must be mindful of the insights to be gained from viewing the world, like Father Wresinski, "from below".

81. Mr. Alfonso Martínez resumed the Chair.

82. Mr. PORRET (International Fellowship of Reconciliation), speaking on agenda item 8, said that the recent political changes in the world had considerably increased the importance of economic, social and cultural rights. The Sub-Commission could play an important role in the debates on that matter that would take place over the coming decade. An economic, social and cultural programme to promote the dignity of all sectors of society could flourish only in a political climate allowing for democratic debate on alternative approaches.

83. His organization had several times raised the question of environmental rights. Democratic debate was a necessary but not a sufficient condition for the promotion of those rights. Most of the major environmental disasters caused by unplanned development had occurred in a non-democratic context. One notorious and extreme example was the destruction of the Aral Sea through ill-considered irrigation schemes and excessive use of pesticides, which had also had an adverse effect on the health of the local population. Such disasters also occurred in a democratic context, but in those cases it was the economic power of the societies in question that interfered with judicial and other proceedings. The transnational corporations, which were guided by no motive other than profit and took no account of the adverse effects of their actions on the environment and populations, also played a major role in environmental pollution. There was thus cause for concern at the recent announcement that Tibet was to be opened up to foreign corporations.

84. The World Bank, despite the fact that it was a United Nations specialized agency, took little account of the needs of the poorest populations, a fact highlighted in paragraph 179 of the final report by Mr. Türk (E/CN.4/Sub.2/1992/16). Nowhere was that approach more apparent than in the case of the Sardar Sarovar project, already referred to by a number of non-governmental organizations, the final decision regarding which was to be taken very shortly.

85. In paragraphs 177-181 of his report, Mr. Türk stressed the need to make popular participation real. Yet in India, a country long admired for its respect for the balance of nature, the construction of the Calcutta-Pondicherry motorway was wreaking ecological havoc and destroying an entire peasant population. His organization had often drawn the attention of the Commission on Human Rights to the need for precisely such effective popular participation. That participation could not be confined to the right to vote in elections, but must take place in a society allowing for the existence of a variety of decision-making centres. Account should also be taken of the pressures to which organizations working to promote popular participation, especially in rural areas, were subject. In his recommendations, Mr. Türk called upon the non-governmental organizations to contribute detailed information and studies to United Nations activities. The organizations must take that challenge seriously by cooperating more closely with the experts in the Sub-Commission and participating fully in debates on economic, social and cultural rights.

86. Ms. TZOC (International Association Against Torture) spoke on agenda item 8 as a representative of the Guatemalan indigenous peoples' movement Majawil Q'ij (New Dawn). She drew attention to the extreme poverty of the majority of the Guatemalan people, who lacked land, housing, basic facilities

and infrastructure, suffered from widespread unemployment or were compelled to work for a pittance, and were prey to a number of endemic diseases. Men, women and children struggled to eke out a living, working at menial tasks, scavenging from refuse heaps, or stealing in order to survive. Many of the children were the orphans of parents murdered by the army since the early 1980s, and were themselves the target of repression by the security forces.

87. For the past 500 years her own people, the Maya, had had alien cultures, thought patterns and economic structures imposed upon them by force. Over the centuries their rulers had changed, but their situation of extreme poverty and hunger remained unaltered. Peasants on the estates were treated like animals, herded into sheds in their hundreds to sleep without proper protection from the elements, malnourished, and ill-treated by their foremen. The men were paid US$ 1.40 for a 10-hour day's work, while the women and children were paid half that wage. Consequently, the land owners employed more women and children. Hospital facilities and social security were non-existent. The land owners set no store by the lives of the peasants, often poisoning them by spraying crops from the air as they worked in the fields; and the Government cared still less.

88. The Maya of Guatemala were being killed with bullets as well as by hunger. Since 1980, many had been compelled to abandon their tiny plots, their scanty belongings and their communities for fear of being murdered by the army. They were now homeless, landless and unemployed, devoid of education, and without identity papers. They could not stay long in any one job for fear of being discovered by the security forces, and their cultural ties with their communities of origin had been irrevocably broken. They had abandoned their traditional clothing, and even their native languages. For the past 10 years, those who lived in the mountains had sown their crops every year, only to see them destroyed by the army or paramilitary groups. Work and education had been disrupted by military incursions and bombardments. Those communities, the Comunidades de Población en Resistencia, were attempting to further their own economic development, but were being thwarted in the attempt by the army.

89. All recent Governments claimed that Guatemala's economic situation had improved, but that was not true for the Maya and for the population in general, whose living conditions deteriorated further with each passing day. In acceding to the International Covenant on Economic, Social and Cultural Rights, the Government had undertaken to improve the economic and social conditions of the population, but since then those conditions had gone from bad to worse. Her people's repeated requests for their lands to be returned to them had been met with police repression. Many had been killed merely for asking for a decent subsistence wage. The Government had sought funds from donor countries, ostensibly to improve the peasants' living conditions; but on account of the corruption that prevailed, that money did not reach its intended destination. The cultural rights of the Maya people also continued to be flouted.

90. The people of Guatemala cherished the hope that the international community, and in particular the Sub-Commission, would be able to contribute to improving their human, economic and social rights, by taking effective steps to make their concern known to the Guatemalan Government.

91. Ms. SPALDING (Human Rights Advocates), speaking on agenda item 8, said that, in response to the recommendation made by Mr. Türk in the last part of paragraph 202 of his report (E/CN.4/Sub.2/1992/16), her organization would be submitting a written statement prepared by a group of persons with disabilities in support of Mr. Despouy's report on human rights and disability (E/CN.4/Sub.2/1991/31), illustrative of the approach advocated by the Special Rapporteur. The ad hoc group had addressed a whole range of aspects of the issue of disability - such as access to housing and institutionalization and/or homelessness of persons with disabilities - thereby confirming the indivisibility and interdependence of all human rights. Her organization thus noted with particular appreciation that the report of the inter-sessional Working Group on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1992/3) proposed human rights and disability as a new sub-item on its agenda. It was to be hoped that henceforth the topic would feature permanently on the agenda of the Sub-Commission.

92. If non-governmental organizations were indeed to play a more creative role in the preparation, implementation and diffusion of studies and reports, certain practical problems must be addressed. Substantive parts of collaborative work on reports, involving thousands of hours' work and substantial financial outlay, were often inadvertently omitted from the finished reports. Such errors had an adverse effect on non-governmental organizations' recruitment and finances, and an effective procedure must be found for correcting them. Shortages of staff and resources within the Secretariat must not be allowed to inhibit the wider work undertaken by the United Nations in partnership with the non-governmental community. In the specific case of Mr. Despouy's report on human rights and disability she strongly urged the Sub-Commission, and the Special Rapporteur in particular, to write a letter requesting that the necessary action should be taken to correct the report and publish the final corrected version as a matter of urgency.

93. Implementation of the finished reports was crucial to giving practical meaning to the concept of indivisibility and interdependence of all human rights, as was closer coordination between the various agencies and bodies of the United Nations system, States and non-governmental organizations. It was to be hoped that the process of implementing Mr. Despouy's report would serve as an example of successful collaboration. The Sub-Commission should request the Commission on Human Rights to ensure that non-governmental organizations were kept informed of developments in the implementation of the report and given an opportunity to participate in that implementation. The international community must not be daunted by the immensity of the task of realizing economic, social and cultural rights, but must dare to achieve the impossible.